

This letter discusses the tax liability of out-of-State printers who mail printed materials into Illinois. See 86 Ill. Adm. Code, Part 140. (This is a GIL.)

July 18, 2005

Dear Xxxxx:

This letter is in response to your letter dated January 12, 2004, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

I am requesting a Private Letter Ruling. After reading the SOT and SUT provisions and an IL General Information Letter ST 02-0174, dated 8/6/2002, I am unclear as to how our client would be treated.

Our client produces computer printed products, such as billing statements and coupon books, for their customers in Indiana. Their process begins with the receipt of customer information via one of several available medias (i.e., magnetic tape, data communications, diskette or electronically). The data is entered into our client's system to be compiled into production groupings that are then converted for printing. The resulting file is spooled to our client's network for printing. Printing is done on either generic forms or customer provided forms.

Our client's customer's billing statements are produced on 8 ½" x 11" or 14" forms and may have multiple pages. After printing, the statements are sent to an intelligent finishing system where the statements are folded; additional materials may be added and then inserted into mailing envelopes. Completed statements are commingled with other mail pieces before submission to the U.S. Postal Service. The finished statements are mailed directly to our client's customer's customer.

The operation for the coupon book production is similar to the statement production. After printing, the book sets are stitched, bound and cut into individual books. They are

inspected and moved to insertion workstations where the coupon books are placed in envelopes along with supplemental materials required by the customer. The coupon books are typically mailed directly to our client's customer's customer. The coupon books are stamped as first class mail and are forwarded to the commingling system where they are mixed with other clients' customer's books and/or states in order to maximize postage discount.

One of our client's largest customers is located in Kentucky. This customer is a contract insurance biller for Medicare. The statements produced for this customer are sent throughout the Midwest, including Illinois. All statement and coupon books are produced in Indiana and are sent through the U.S. mail into Illinois. Our client is registered for sales/use tax collection in Illinois, although they do not have nexus. They voluntarily registered some years ago.

Our client's billing system separately bills their client for each activity on a per piece basis. For example, their customer is billed for any additional programming to convert their data into readable data for the printing system, as well as the printing, insertion, folding, stuffing, mail preparation and postage related to each mail piece.

Would our client be responsible to collect use tax on only the sale of the printed material? Would our client be responsible to collect use tax on the itemized related services, such as folding, inserting and cutting. If so, what activities that they performed are subject to taxation? Is postage taxable? Or is our client a service provider and need not collect use tax on the whole transaction?

Thank you for your assistance in clarifying this issue.

If you have any additional questions, please contact me.

DEPARTMENT'S RESPONSE:

I apologize for the delay in getting a response to you. Because the requirements of 86 Ill. Adm. Code 1200.110 were not met and due to limited information provided, we are unable to issue a private letter ruling to you concerning this matter. However, I hope the following information will aid you in making a determination concerning your tax liabilities.

When a printing company produces and sells custom printed materials, it is engaged in special order printing. Under Illinois tax law, the transfer of special order printing materials is a service transaction that may result in either Service Occupation Tax or Use Tax liability for the special order printer. For your general information see 86 Ill. Adm. Code 140.101 through 140.109 regarding sales of service and Service Occupation Tax.

The general information letter referred to in your letter (ST 02-0174) describes the Department's position for printed materials "used" outside Illinois and then placed for mailing by mail or common carrier outside Illinois for delivery into Illinois, and during which the serviceman loses the ability to exercise control over the printed materials (e.g., to recall the materials). Generally, in the situations described in this letter, a serviceman would not incur Use Tax or Service Use Tax liability if the serviceman does not retain the ability to exercise control over the shipment of the printed materials after entry into Illinois.

I hope this information is helpful. If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Sincerely,

Samuel J. Moore
Associate Counsel

SJM:msk